UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/777,217
Confirm. No.:	2491
Inventor:	Carlton J. Sparrell et al.
Filing Date:	February 13, 2004
Title:	Digital Video Recording and Playback System with Seamless Advertisement Insertion and Playback from Multiple Locations via a Home Area Network
Examiner:	Featherstone, Mark D.
Art Unit:	2623
Atty. Docket No.:	BCS03857-01

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action mailed from the U.S. Patent and Trademark Office on September 8, 2008, Applicant requests review of the final rejection in the above-identified application. This request is being filed with a Notice of Appeal and required fee. An extension of time is requested and this response is accompanied by the fee required under 37 C.F.R. 1.136(a). The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 50-2117.

No amendments are being filed with this request. The review is requested for the reasons stated in the remarks below.

STATUS OF CLAIMS

Claims 5-11, 16-22, and 27-33 are pending in this application.

REMARKS

In the Office Action mailed on September 8, 2009, the Examiner rejected claims 5-6, 8-10, 16-17, 19-21, 27-28, and 30-32 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,446,261 to Rosser, in view of U.S. Patent Application Publication No. 2003/0122966 to Markman et al., and rejected claims 7, 18 and 29 under 35 U.S.C. 103(a) as being unpatentable over Rosser in view of U.S. Patent Publication No. 2002/0013941 to Ward III et al.

With respect to independent claims 8, 19 and 30, the Examiner apparently asserts the combination of Rosser and Markman et al. teach the use of two active rendering devices, each with its own profile. Rosser describes only a single device with a profile derived from the entire household's viewing habits. See generally column 8, lines 20-38.

To the extent the Examiner believes it would be obvious to use of two of Rosser's inventions in a single system, Applicant would like to point out that they would be identical rendering devices with identical profiles. In such a system, the alleged "first targeted advertisement" would be the same as the "second targeted advertisement" in contradiction of the last limitation of claims 8, 19 and 30.

Markman et al. generally describe a centralized media server that supports a plurality of client devices in a home in paragraph 45. Markman et al. fail to describe any client devices having different profiles. Any profiles from Rosser put into the combination of Rosser and Markman et al. would result in the plurality of client devices having the same profile. This is true because neither reference teaches or suggests using two different profiles on two different rendering devices. Thus the combination of Rosser and Markman et al. fail to teach all of the claim limitations.

Claims not specifically mentioned above are allowable due to their dependence on an allowable base claim. In light of the arguments presented above, it is respectfully submitted that all pending claims are in condition for allowance. Reconsideration and withdrawal of the final rejection of the claimed invention is respectfully requested.

Respectfully submitted,
CARLTON J. SPARRELL, et al.

Date: March 9, 2009

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